

**Department of Environmental Conservation
Response to Comments**

For

Excavation Dewatering General Permit

APDES Permit No. AKG002000

Public Noticed May 2, 2014 through June 2, 2014

June 26, 2014



**Alaska Department of Environmental Conservation
Wastewater Discharge Authorization Program
555 Cordova Street
Anchorage, AK 99501**

1.0 Introduction

1.1 Summary of Facility / Permit

Excavation dewatering in all regions of Alaska with exception of Denali National Park and Preserve and the Indian Reservation of Metlakatla are eligible for coverage under the permit. Dewatering associated with oil and gas exploration facilities located in the North Slope Borough or for hydrocarbon transport pipeline projects are eligible for alternative general permits.

Dewatering discharges eligible for coverage under the general permit would consist of water pumped from excavation areas through the use of temporary dewatering wells or submersible pumps to lower the water table to support a construction activity. The dewatering of accumulated groundwater and storm water that accumulates within an excavation area is an authorized discharge under the permit. The permit does provide discharge authorization for dewatering conducted within 1,500 feet of a permit defined “DEC-identified contaminated site” although special permit conditions apply and additional requirements may be added in the discharge authorization. The special conditions will provide assurance that the dewatering activities doesn’t pull contamination from the known contaminated sites.

1.2 Opportunities for Public Participation

The Department of Environmental Conservation proposes to issue an Alaska Pollutant Discharge Elimination System (APDES) wastewater discharge general permit for excavation dewatering. To ensure public, agency, and tribal notification and opportunities for participation during the development process, the Department completed the following:

- identified the permit on the annual Permit Issuance Plan posted online at: <http://dec.alaska.gov/water/wwdp/index.htm>
- notified potentially affected tribes that the Department would be working on this permit via letter, fax and/or email
- posted a preliminary draft of the permit on-line for a 10-day applicant review April 1, 2014 and notified tribes and other agencies
- formally published public notice of the draft permit on *May 2, 2014* in the *Anchorage Daily News*, *Juneau Empire*, and *Fairbanks Daily Newsminer* and posted the public notice on the Department’s public notice web page
- posted the proposed final permit on-line for a 5-day applicant review
- sent email notifications via the APDES Program List Serve when the preliminary draft, draft, and proposed final permits were available for review

The Department received comments from three interested parties on the draft permit and supporting documents. The Department also requested comment from the Departments of Natural Resources (DNR) Fish and Game (DFG), the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the U.S. Environmental Protection Agency (EPA).

This document summarizes the comments submitted and the justification for any action taken or not taken by DEC in response to the comments.

1.3 Final Permit

The final permit was adopted by the Department on June 30, 2014. There were changes from the public noticed permit. Significant changes are identified in the response to comments and reflected in the final fact sheet for the permit.

2.0 Minor Comments

2.1 Comment Summary

The Department received several comments that were minor typographical/formatting comments or were the same or very similar to comments that were submitted by other entities. The Department did not include these minor or duplicative comments in this Response to Comments Document, but as appropriate, did make necessary updates to the permit and fact sheet in response to the identified typographical/formatting errors, and addressed duplicative comments through one Department response below.

3.0 General Comments

3.1 Comment Summary

The Department received a comment from Shannon & Wilson, Inc (Shannon Wilson) that there are additional methods available associated with excavation dewatering (vacuum well points, eductors, sumps, etc.).

Response:

Comment noted; clarification of additional methods included in Permit Part 1.3 and Fact Sheet.

3.2 Comment Summary

The Department received a comment from Alyeska Pipeline Service Company (Alyeska) to remove the seven day waiting period after issuance of an authorization. The 30 days that DEC has to process the NOI should be sufficient to provide for the stated goals of the seven day waiting period.

Response

The seven-day waiting period has been removed. Permit Part 2.1.2 and Fact Sheet have been updated to reflect that a permittee is authorized to discharge excavation dewatering under the terms and conditions of the permit upon the date specified in the issuance of the authorization letter, which is posted on DEC's website <http://dec.alaska.gov/Applications/Water/WaterPermitSearch/Search.aspx>.

3.3 Comment Summary

The Department received a comment from Alyeska, Hilcorp Alaska, LLC (Hilcorp), and Shannon Wilson requesting consideration for emergency repairs. There are likely many situations that will require some dewatering on an emergency basis (such as utility line repairs). These are short-term projects and would not have coverage under the Construction General Permit.

Response:

An Emergency Repairs or Reconstruction of a Facility condition has been added to Permit Part 2.2.9.

3.4 Comment Summary

The Department received a comment from Alyeska regarding the one size fits all requirement for setting the distance from a contaminated site regardless of the type of contaminant, or the severity of the contamination, or the potential for adverse effects to groundwater.

Response

A distance threshold was selected as a means of implementation for a state-wide condition, and that the type of contaminant, severity, and soil conditions are site dependent. No changes in the Permit or Fact Sheet were made based on this comment.

3.5 Comment Summary

The Department received comments from Alyeska and Hilcorp that the requirements in Permit Part 2.2.7 are overly burdensome and the data requested is dependent upon information provided by DEC. Additionally, it was requested that the hydrogeologic report be prepared by qualified individuals consistent with 18 AAC 75.990 or 18 AAC 60.990.

Response

The conditions in Permit Part 2.2.7 were primarily the conditions that existed in the previously issued 2009DB0003 permit. The 2014 permit has now been revised for clarity for the applicant to identify potential pollutants of concern that may be entrained in the excavation dewatering discharge based on the excavation dewatering activity by reviewing available data, and identifying a proposed treatment methodology for the pollutants of concern if encountered. The applicant should refer to DEC's website (<http://dec.alaska.gov/Water/wnpssp/stormwater/edhsgp.html>) for information in DEC's Contaminated Sites Database, Summaries, and map and listing of contaminated sites as an aid in assessing pollutants of concern that may potentially be present in the dewatering discharge.

The Department may additionally request a hydrogeologic report be prepared if the dewatering activities may impact the contaminate site or plume. The request for a hydrogeologic report is intended to be reserved for rare occurrences and be site-dependent, and would be coordinated with the applicant.

The qualifications of the individual preparing the hydrogeologic report has been changed to be consistent with the qualifications as defined in 18 AAC 75.990 or 18 AAC 60.990.

3.6 Comment Summary

The Department received comments from Hilcorp inquiring if a permittee will be required to drill their own monitoring wells; and would the permittee have access to existing monitoring wells to meet the requirement of 2.2.7.3?

Response

It is possible the permittee may need to drill their own monitoring wells for characterization purposes. Note, Permit Part 2.2.7.3.2 allows the use of existing monitoring wells. No changes in the Permit or Fact Sheet were made based on this comment.

3.7 Comment Summary

The Department received a comment from Alyeska in regards to imposing conditions in a general permit that are not part of the statutory authority or jurisdiction granted to the agency. The requirements to contact the Department of Fish and Game and to contact and apply for a TWUA from Department of

Natural Resources by a certain deadline, as part of these APDES General Permit requirements, is contrary to statutory authority and potentially creates inconsistencies.

Response

The permit and fact sheet have been updated to remove conditions of contacting outside agencies.

3.8 Comment Summary

The Department received a comment from Alyeska requesting that the time constraints imposed in Permit Part 5.1.1 be removed where complete infiltration would occur within 24 hours upon ceasing the discharge. This time constraint does not account for conditions where soils may be frozen or covered in ice and snow, and that work may occur in the winter.

Response

The Department has updated Permit Part 5.1.1.

3.9 Comment Summary

The Department received a comment from Hilcorp noting oil and gas facilities are exempt from obtaining coverage under the Construction General Permit due to the oil and gas exemption or the facility is covered under the Multi-Sector General Permit. The flow chart in the Fact Sheet Appendix A does not address that scenario.

Response

The flow chart is a visual simplification of the requirements of the general permit. Not all permit requirements are reflected in the flow chart. No changes in the Permit or Fact Sheet were made based on this comment.

3.10 Comment Summary

The Department received a comment from Alyeska noting the Draft Permit does not set a dewatering volume amount that would trigger coverage under the permit. Alyeska's current APDES Permit AK0050563 requires coverage for excavations where dewatering efforts would exceed 500,000 gallons. It appears that the Draft Permit requires an NOI for any amount of water, no matter how small, discharged to waters of the U.S.

Response

The permit, consistent with the Clean Water Act, does not define a *de minimis* discharge for discharges to waters of the U.S. For small quantities of discharge water, land disposal would most likely be the preferred method. No changes in the Permit or Fact Sheet were made based on this comment.

3.11 Comment Summary

The Department received a comment from Alyeska requesting the general permit include an acknowledgement of a Short-Term Water Quality Variance as authorized by 18 AAC 70.200 for work that is otherwise covered under a Corps of Engineers (COE) permit such as excavations in an active channel or floodplain.

Response

As described, the short-term water quality variance is authorized in the COE permit. In accordance with 18 AAC 70.200, a short-term water quality variance is only available for consideration as (1) a one-time, temporary activity that is a nonpoint source of water pollution, and (2) a temporary activity

associated with the placement of dredged or fill material affecting a specific waterbody. The 2014 Excavation Dewatering General Permit does not address either of the scenarios above. No changes in the Permit or Fact Sheet were made based on this comment.

3.12 Comment Summary

The Department received a comment from Hilcorp inquiring if a project is seasonal, whether the permittee can keep the authorization open for multiple years and file the Notice of Termination (NOT) at the completion of the project?

Response

No, Permit Part 7.1.1 requires submittal of NOT within thirty (30) days upon completion of the excavation dewatering. No changes in the Permit or Fact Sheet were made based on this comment.

3.13 Comment Summary

The Department received a comment from Hilcorp requesting clarification to days specified in Appendix A, Part 3.4.1.2 – in writing within five days after the permittee becomes aware of the circumstances.

Response

The days required in this part of the Standard Conditions are applicable to all APDES permits, and the requirement is derived from 18 AAC 83.410(f)(1)(B), which does not distinguish between business days or calendar days; therefore, calendar days is the criteria. No changes in the Permit or Fact Sheet were made based on this comment.

3.14 Comment Summary

The Department received a comment from Hilcorp requesting if electronic copies of the permit be kept on site is acceptable.

Response

For the purposes of this permit, an electronic copy of this permit is acceptable provided that retrieval of the document is readily available and accessible on-site. No changes in the Permit or Fact Sheet were made based on this comment.

3.15 Comment Summary

The Department received a comment from Alyeska in regards to the terms and conditions of AKG002000 may be incorporated into the statewide hydrocarbon transport pipeline general permit (AKG332000, tentative).

Response

The development of AKG332000 is covered under a separate permit development process that has not formally begun yet. No changes in the Permit or Fact Sheet were made based on this comment.

4.0 Comments on Monitoring and Reporting Requirements

4.1 Comment Summary

The Department received a comment from Shannon Wilson that Appendix A, Part 3.2 references an annual report but the general permit requires monthly reporting. Are both reports required?

Response

No, only the monthly report is required; the dewatering activities associated with construction activity are anticipated to be in short duration. No changes in the Permit or Fact Sheet were made based on this comment.

4.2 Comment Summary

The Department received a comment from Shannon Wilson that the Discharge Monitoring Report (DMR) provided does not match the frequency and monitoring parameters required in Tables 3 and 4.

Response

The DMR form is to be used for discharges to waters of the U.S.; whereas Table 3 refers to land disposal discharges and would be recorded in a log book. No changes in the Permit or Fact Sheet were made based on this comment.

4.3 Comment Summary

The Department received a comment from Shannon Wilson requesting clarification if pH should also be measured upstream of the discharge point due to the requirement of having a discharge close to the natural pH of the receiving water.

Response

Yes, pH should also be measured upstream of the discharge, changes were made to Permit Table 4 and Fact Sheet.

4.4 Comment Summary

The Department received comment from Alyeska noting that for a variety of parameters (pH, settleable solids, turbidity) there is a requirement to perform effluent monitoring before discharge to waters of the U.S. There could conceivably be situations where there is no water to sample at the discharge point prior to discharge such as with dry wetlands, ice-covered rivers, dry river channel. DEC should consider an alternative monitoring requirement in situations where there are jurisdictional waters, but where no physical receiving water exists.

Response

In cases where there is no physical receiving water to sample, annotate in the monitoring records the site conditions and sample the effluent only as appropriate. No changes in the Permit or Fact Sheet were made based on this comment.

4.5 Comment Summary

The Department received comment from Alyeska that sampling for Settable Solids is a lengthy process and other options should be considered.

Response

The amount of settleable matter provides an estimate of the type and extent of treatment required and the general quality of the water being discharged, and is a water quality based standard (18 AAC 70). No changes in the Permit or Fact Sheet were made based on this comment.